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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/722,936	11/27/2000	David Vardi	P/1318-115	5045

2352 7590 03/18/2004

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NEW YORK, NY 100368403

EXAMINER

DAS, CHAMELI

ART UNIT	PAPER NUMBER
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2122

DATE MAILED: 03/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/722,936

Applicant(s)

VARDI ET AL.

Examiner

C.DAS

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 November 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-27 and 29-46 is/are rejected.
- 7) ☒ Claim(s) 10 and 28 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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1. Claims 1-46 are pending.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9, 11-15, 18-27, 29-34, 37-46 are rejected under 35 U.S.C. 102(b) as being anticipated by Barritz, US 5,499,340.

As per claims 1, 20, Barritz discloses:

- monitoring software that monitors the execution of load modules on a computer (Abstract, col 2 lines 56-65, col 8 lines 5-10)

Barritz discloses the monitoring program filters the event and reflecting the execution of the load modules to data records which reflect the usage or products (col 2 lines 56-67, col 3 lines 1-14, col 4 lines 11-15, col 8 lines 40-45 and col 12 lines 15-22, col 9 lines 47-50), where the method of filtering events is acting as reducer.

Regarding claim 2, 21, (Barritz, col 2 lines 56-67, col 3 lines 1-9, col 6 lines 36-53, col 8 lines 5-10, col 8 lines 38-45, col 4 lines 55-67, fig 3, col 6 lines 36-40, col 12 lines 17-31, col 9 lines 22-27, col 9 lines 48-52).

Regarding claims 3, 22, (Barritz, col 8 lines 40-45).

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Regarding claims 4, 23, (Barritz, col 8 lines 40-45, col 10 lines 18-27).

Regarding claims 5, 24, (Barritz, abstract, col 8 lines 40-47, col 12 lines 7-22, col 5 lines 19-25, col 6 lines 36-52).

Regarding claims 6, 25, (Barritz, col 4 lines 12-46).

Regarding claim 7, (Barritz, col 6 lines 36-45).

Regarding claims 8, 26, (Barritz, col 6 lines 36-45).

Regarding claims 9, 27, (Barritz, col 10 lines 1-6, col 10 lines 18-21, col 10, lines 50-55).

Regarding claims 11, 29 (Barritz, col 44-46, col 9 lines 22-26).

Regarding claims 12, 30, (Barritz, col 44-46, col 9 lines 22-26).

Regarding claims 13, 31, (Barritz, col 8 lines 40-45, col 9 lines 56-60, col 10 lines 1-25).

Regarding claims 14, 32, (Barritz, col 4 lines 64-67, col 5 lines 1-25).

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Regarding claims 15, 33, (Barritz, col 42-46, col 4 lines 58-62).

Regarding claims 18, (Barritz, col 3 lines 10-30), where plurality of storage devices and each comprises a monitoring means inherently including multiple monitors are running of the different logical partitions as claimed.

Regarding claims 19, 34, (Barritz, col 10 lines 66-67 col 11 lines 1-10).

As per claims 37, 42, Barritz discloses:

- monitoring software that monitors the execution of load modules on a computer (Abstract, col 2 lines 56-65, col 8 lines 5-10)
- a table that stores a list of entry-gate load modules (col 4 lines 55-67, fig 3), where the executable program modules are loadable, (col 6 lines 36-40)
- a reducer that converts data records reflecting the execution of the software products on the computer ... stored in the table (col 12 lines 17-31, col 9 lines 22-27), where by filtering events is acting as a reducer and monitoring the events relating to executable program modules (abstract), produced report reflecting the system usage is shown in (col 9 lines 48-52).

Regarding claims 38, 43, (Barritz, col 9 lines 22-27, col 9 lines 47-51, col 4 lines 64-67).

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Regarding claims 39, 44, (Barritz, col 42-46, col 4 lines 58-62).

Regarding claims 40, 45, (Barritz, col 48-55, col 2 lines 60-67).

Regarding claims 41, 46 (Barritz, col 10 lines 47-55).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barritz, US 5499340 and further in view of Wade, US 5,379,406.

As per claim 16, Barritz does not specifically disclose condensed database. However, Wade discloses condensed database (Wade, abstract).

The modification would be obvious because one of the ordinary skill in the art would be motivated to save the significant space into the storage of the file.

As per claim 17, Barritz discloses storing the record in a storage. Neither Barritz nor Wade specifically disclose that store for longer than temporary recording. However, official notice is taken for storing the record for longer than temporary recording. The

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modification would be obvious because one of the ordinary skill in the art would be motivated to keep the records for future use of the information.

As per claim 35 and 36, Barritz discloses monitoring period is greater than one week (Barritz, col 10 lines 18-23, col 9 lines 30-35).

Barritz does not specifically disclose reduces the amount of data records by at least a factor of 100 to 1. However, official notice is taken for reducing data by a certain factor. The modification would be obvious because one of the ordinary skill in the art would be motivated to perform the monitoring of the software efficiently.

Allowable Subject Matter

4. Claims 10 and 28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. The prior art made or record and not relied upon is considered pertinent to applicant's disclosure.

TITLE: Computer system usage determination based on hard disk drive activity, US 5748957 A

TITLE: Method and apparatus for remotely controlling and monitoring the use of computer software, US 5388211 A

TITLE: Method and apparatus for detecting a lower level software reusable product in generating an upper level software product from a lower level software product and changing the upper level software product, US 5590270 A

TITLE: System and method for providing trace information, US 6338159 B1

TITLE: Automatic updating of diverse software products on multiple client computer systems by downloading scanning application to client computer and generating software list on client computer, US 6151643 A

TITLE: Agents for Collecting Application Usage Data Over the Internet, author: Hilbert et al, ACM, 1998.

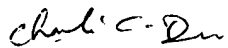
TITLE: Software Fault Isolation, author: Gambir et al, ACM, 1992

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chameli Das whose telephone number is 703-305-1339.

The examiner can normally be reached on Monday-Friday from 7:00 A.M. to 3:30 P.M. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Tuan Dam can be reached at 703-305-4552. The fax number for this group is (703) 872-9306.

An inquiry of general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-9600.

CHAMELI C. DAS
PRIMARY EXAMINER



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3/12/04